

DOCKET NO.: 2154.001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS

In re: The Application of:

INVENTOR(S): Rodger Burrows

GROUP ART UNIT: 3622

SERIAL No.: 09/910,654

EXAMINER: Myhre, James W.

FILING DATE: 7/20/01

TITLE: METHODS AND APPARATUS FOR ELECTRONICALLY STORING
TRAVEL AGENT COUPONS

CERTIFICATE OF MAILING

I HEREBY CERTIFY that this paper is being mailed, via U.S. Post Office Express mail No. EV 245100429, to Mail Stop: Board of Patent Appeals, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 16th day of April, 2004.


Signature of Person Mailing Paper

Richard M. Saccocio
Printed Name of Person Mailing Paper

Mail Stop Board of Patent Appeals
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

APR 21 2004

GROUP 3600

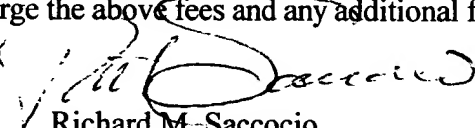
Sir:

REPLY BRIEF TRANSMITTAL LETTER

Transmitted herewith for filing in the above referenced application and appeal are:

Applicant Rodger Burrows' Reply Brief on Appeal in triplicate, with a copy to the Primary Examiner.
Post card

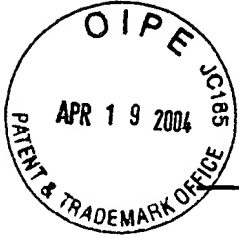
The Commissioner is hereby authorized to charge the above fees and any additional fees to Deposit Account No. 19-0010.


Richard M. Saccocio
Reg. No. 26,800
Attorney for Applicant/Appellant
Fax No.: 954-764-6141
Telephone 954-764-8003

Mail Correspondence to:
Law Offices of
Richard M. Saccocio, PA

The PTO did not receive the following
listed item(s) the post card

100 SE 12th Street
Ft. Lauderdale, FL 33316



IN THE U.S. PATENT OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

8/27/04
17/RE
B. E.

REPLY BRIEF OF
APPELLANT RODGER BURROWS
UNDER 37 C.F.R 1.191

IN RE: The Application of:

INVENTOR: Rodger Burrows

GROUP ART UNIT: 3622

SERIAL NO.: 09/910,654

EXAMINER: Myhre, James W.

FILING DATE: 7/20/01

TITLE: METHODS AND APPARATUS FOR ELECTRONICALLY
STORING TRAVEL AGENT COUPONS

RECEIVED

APR 21 2004

GROUP 3600

Law Offices Of

Richard M. Saccocio, P.A.

Attorney For Appellant

100 SE 12th Street

Ft. Lauderdale, FL 33316

April 16, 2004

**REPLY BRIEF OF
APPELLANT RODGER BURROWS
UNDER 37 C.F.R 1.191**

In re The Application Of:

INVENTOR(S):	Rodger Burrows	GROUP ART UNIT:	3622
SERIAL No.:	09/910,654	EXAMINER:	Myhre, James W.
FILING DATE:	7/20/01		
TITLE:	METHODS AND APPARATUS FOR ELECTRONICALLY STORING TRAVEL AGENT COUPONS		

INTRODUCTION

The Examiner's Answer arguments essentially track his initial and final rejection of the claims in issue, as follows:

- a) Claims 1-15, 17 and 18 are rejected because Applicant did not invent the claimed subject matter.
- b) Claims 1-15, 17, and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Friedes* et al in view of *Industry Agent's Handbook* Section 70.0 (2000 Ed.), (*IAH*).

The Examiner's "Response to Argument", generally includes the following:

- c) That the one cite by ARC that agents "can now print agent coupons on non-accountable stock or capture the coupon data" on an optical media, evidences the Examiner's position that Burrows was not the inventor. And, even if ARC did not authorize storage of the data of the coupon, it is immaterial because it would have been obvious to store the data in an image format.
- c) That anyone having even a basic skill in the art of computer programming would have known how to store a document and then retrieve and display/print a document that was a perfect facsimile of the original document. Further that *Friedes* is analogous prior art because *Friedes* and ARC pertain to storing travel information electronically. Also, the Examiner states that the ARC handbook does not teach away from Applicant's claimed invention.

d) In response to Applicant's argument that the rejection of claims 2-4 under section 103 is in error, the Examiner argues that the disclosure does not teach away from using other types of media but merely selects one or more which are desirable for their purpose or rules.

e) That Applicant's argument that the Examiner's rejection of the claims was based on hindsight, was not based on hindsight; but rather "a reconstruction based on hindsight reasoning." And that the combination of the two references (*LAH* and *Friedes*) is mandated by the rules and regulations of ARC.

REPLY ARGUMENT TO EXAMINER'S ANSWER

a) Applicant is the Inventor of the Claimed Subject Matter.

The Examiner's Answer in support of his 102(f) rejection is summarized as follows: Applicant has taken the advice of the ARC board and developed a computer program to electronically store the agent's coupons; however, merely writing a program to implement another person's idea or a new law/requirement is not an inventive step.

Thus, the Examiner's Answer argument, essentially comprises the same arguments the Examiner used in initially and finally rejecting Applicant's patent application.

In Applicant's responses to Examiner's patent applicant rejections, and in Applicant's brief, Applicant has more than amply demonstrated that ARC made a plethora of statements directly opposite to the one statement relied on by the Examiner. That is, that all of ARC's statement, taken as a whole, overwhelming show that Arc's switch from accountable paper stock to electronic storage disclosed the authorization to store the actual image of the agent coupon and not data storage. Therefore, the one obviously inconsistent data statement is inappropriately being relied on by the Examiner in addressing the issue of inventorship.

As in the rejection of the claims in the patent application, as well in the Examiner's present argument in support of the claim rejections, the Examiner makes no attempt to argue in opposition to Applicant's showing or even acknowledge that ARC's other statements were directed to image storage and not data storage which are directly contrary to the one statement relied on by the Examiner. The Examiner simply ignored the many other statements made by ARC, which consistently mentioned image storage and in some instances actually mentioned that data storage was not to be used. For example, Applicant has shown that on June 20, 2000 ARC stated: "If you're using a type of optical storage media, we're talking about capturing the image of the coupon, not creating a database." This single and definitive statement by

ARC alone should have caused the Examiner to at least respond to Applicant's then and now arguments regarding inventorship. Instead the Examiner reiterated his same argument based on the one statement shown by Applicant to be substantially questionable, if not completely disregarded. Indeed, the only reasonable conclusion that can be reached by a consideration of the totality of the ARC statements is that storage of an image was being authorized by ARC and that image storage was being requested to be developed by the travel agents. In view of the more reasonable interpretation of the totality of ARC's statements, it must be concluded that ARC "advice" taught away from Applicant's claimed invention and that ARC is not the inventor as espoused by the Examiner. Accordingly, Applicant can not be considered to have merely written a program to implement another's idea or requirement.

The Board is requested to note that the law regarding inventorship involves the principles of derivation and conception. Derivation is a question of fact; conception is a question of law, *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The standard under which a derivation issue is determined includes the sufficiency of the disclosure and whether the communication enabled one of ordinary skill to make the patented invention, *id.* The standard under which an issue of conception is determined is stated in *Mahurkar v. C.R. Bard*, 79 F.3d 1572 (Fed. Cir. 1996), where the court adopted the following definition for conception:

The conception of an invention consists in the complete performance of the mental part of the inventive act. All that remains to be accomplished in order to perfect the actor instrument belongs to the department of construction, not invention. It is therefore, the formation in the mind of the inventor of a definite and permanent idea of the complete and operative invention as it is thereafter to be applied in practice...

The Examiner makes no attempt to show how the facts in the present appeal fit within the tests of inventorship as per *Gambro Lundia AB*, or *Mahurkar*. Instead, the Examiner concludes that "... it appears that Applicant has taken the advice of the ARC board and developed a computer program to electronically store the agent's coupons. However, merely writing a program to implement another person's idea or a new law/ requirement is not an

inventive step.” Thus, if the Examiner’s initial conclusion is in error, his resulting conclusion of inventorship is in error. Since, Applicant has demonstrated that ARC’s “advice” was that of image storing, and not rebutted by the Examiner, legally and logically, the Examiner’s interpretation of “advice” being that of data storage is in error.

Moreover, the Examiner attempts to over simplify Applicant’s inventive contribution by classifying Applicant’s invention as merely a computer program. Even a cursory look at Claim 1 shows that Applicant’s method includes a number of limitations in addition to the use of a computer program. It is well accepted that a combination of old elements are patentable provided that novelty exists and the claim is not obvious. Then too, the Examiner, cites no authority in support of his statement that Applicant did not take an inventive step, notwithstanding his over simplification of Applicant’s contribution.

Contrary to the dictates of *Gambro Lundia AB*, and *Mahurkar supra*, the Examiner made no attempt to show how the “advice” of ARC (even if one can accept what the Examiner considers to be the “advice” of ARC, which is not conceded by the Applicant) comprised a sufficient disclosure that enabled one of ordinary skill to make the invention. Merely concluding that Applicant created a computer program is not only legally insufficient to support the examiner’s position under §102(f), the Examiner made no showing that one skilled in the art is able to make Applicant’s invention. On the other hand, Applicant has made a showing the ARC did not even have the ability to store coupon images electronically, let alone data from which the coupon can be generated. Applicant has also demonstrated that ARC was surprised that Applicant’s invention was able to generate an actual coupon from the method of Applicant’s invention, which is an indication of non-obviousness.

Accordingly, Applicant submits that the Examiner, during the prosecution of the patent application, and here again in his initial brief, has not sustained his burden that Applicant is not the inventor of the claimed invention.

b) Applicant’s Claimed Invention Is Not Rendered Obvious By The Combination Of *Friedes* And The *IAH*.

The Examiner attributes *Friedes* with generating , storing transmitting and retrieving and printing agent coupon data. Yet, *Friedes* does not once mention agent coupon data. The examiner imputes these accomplishments to *Friedes* because, according to the Examiner,

ARC required storage of agent coupons in the travel industry and therefore *Friedes* must inherently include the same. In other words, the Examiner is incorporating all existing legal requirements into the teaching of an invention. The Examiner, however provides no support for such an extrapolation.

Moreover, Applicant is not aware of any authority or principle of patent law that requires an invention to comply with an administrative agency's rules or regulations. Whether or not an invention can be used in violation of rules and regulations is a matter separate and apart from an issue of patentability. For example, can an OSHA rule prevent the allowance of a patent application even where the implementation of the invention would not be allowed to be used under OSHA? Or, can an FAA regulation prevent the issuance of a patent for an invention that would not be allowed to be used on an airplane? Certainly, there is nothing in the patent statute that requires an invention to comply with an industry standard that is expressed in the nature of a regulation. Then too, what if the invention caused an industry or agency to revise its standards or regulations. Can an inventor refile a rejected application based on the invention having successfully changed a standard or regulation?

Clearly, it was error for the Examiner to extrapolate the teachings of *Friedes* to include any reference to agent coupons, either data or images. Furthermore, it is most ironic that the Examiner attempts to input ARC's regulatory requirements in order to impute additional teachings to *Friedes*, when in the Examiner's later arguments he attempts to show obviousness by way of an example of an ability to sell liquor to a minor irrespective of a law not allowing liquor sales to a minor.

The inapplicability of *Friedes* as prior art or suggesting the teachings stated by the Examiner is further erroneous in that *Friedes* does not suggest or mention printing of anything. *Friedes* clear intent is to disclose and claim a completely paperless arrangement for providing an airline ticket or other such purchasing transaction by the use of Smart Cards, comprising a transaction directly between a consumer and an airline. For *Friedes* to be interpreted to include a printing step would therefore be contrary to the clear intent of *Friedes* to invent and disclose a completely paperless arrangement. It is to be noted that *Friedes* does not involve a third party to the transaction, such as a travel agent. However, the requirement for agent coupons is due to the involvement of a travel agent. When no travel agent is

involved, no agent coupon is involved. For this reason, *Friedes* is neither analogous prior art nor teaches or suggests Applicant's claimed invention, alone or in combination with the *IAH*.

Accordingly, whether *Friedes* is or is not considered analogous art, *Friedes* does not teach the subject matter advanced by the examiner, and the combination of *Friedes* and the *IAH* do not render Applicant's invention obvious.

APPLICANT'S REPLY ARGUMENTS TO EXAMINER RESPONSE ARGUMENTS

c) Applicant's Reply Argument to Examiner's Response Argument Regarding Rejection of Claims 1-15 and 17, 18 Under 35 U.S.C. § 102(f)

1. The Examiner's response argument to Applicant's brief argument again essentially comprises the reasons stated by the Examiner in rejecting the application and as regards the Examiner's Answer argument. That is, that the Applicant cited a statement by ARC to the effect that agents can capture the coupon data inferring that the Applicant has admitted ARC is the inventor. The Examiner still refuses to respond to the evidence produced by the Applicant that the one statement by ARC relied on by the Examiner, when considered with regard to the totality of some other nine statements by ARC, that are directly opposite to the statement relied on, renders the reliance on the one statement erroneous. For example, in the *Travel Weekly News* dated 5/31/2000 (doc. AL, Form PTO 1449), ARC president David Collins is quoted as stating "Effective immediately, these agencies may print the agent's coupons on plain paper or capture **the image** on optical media, such as a CD-ROM." (emphasis supplied) In another example, in the *Travel Weekly News* dated 7/6/2000 (doc. AN, Form PTO 1449), it is stated that "ARC previously announced that agents who report sales electronically have the option of printing the agent's coupons of each ticket on non-accountable paper or capturing **the image** on optical storage media, effective immediately." (emphasis supplied). The Examiner ignored these statements.

Further more, ARC even admitted that it did not have the ability to implement its policy allowing the travel agents to capture the image of an agent coupon, let alone data from which an image can be generated.. In the same 7/6/2000 article of the *Travel Weekly News*, it was stated "In response to questions after the new policy was announced, ARC said it can give some advice but does not 'provide the tools or systems' to switch agent's coupons from accountable stock. Translation: It's up to the agents to figure out how to do it." It is to be

noted that the date of the article quoting ARC is dated after the one ARC statement relied on by the Examiner.) Therefore, even as regards the storage of an image of an agent coupon, ARC did not complete the performance of the mental steps necessary to accomplish the invention, *Gambro Lundia AB, Mahurkar, supra*.

Even the *IAH* relied on by the Examiner reflects that the entire thrust of ARC's statements is with regard to storing an image of the agent coupon. For example, the revised section 70.0 of the *IAH* states

"...all supporting documents (i.e., the agent coupons, RENS,..." ;
"(1)...all supporting documents must be copied to microfiche/film or a non-magnetic optical medium...However, computer hard drives ...are NOT acceptable; (2) ...all supporting documents stored on Microfiche/film ...must be accessible by an ARC representative...";
(4) The records which are stored optically or on microfiche/ film must be direct, complete and accurate reproductions of the original ...supporting documents..."

The "Go Electronic" bulletin by ARC further evidences that the statement relied on by the Examiner is inappropriate. In the bulletin, under the title "Electronic Storage of Agent Coupons", it is stated "Early in 2000, the rules were changed to allow IAR InteractivePlus agents to print the **Agent Coupon image** on plain paper, itinerary stock, or to capture the **Agent Coupon image** on an optical disk..." (emphasis supplied). The Board is requested to note that ARC is referring to its earlier announcement statement.(containing the word "data"), but now the ARC statement uses the word "image". In view of the ARC statement, also in June of 2000, "If you're using a type of optical storage media, we're talking about capturing the image of the coupon, not creating a database.", it must be concluded that the one questionable statement by ARC cannot be taken literally and does not evidence that ARC invented the Applicant's claimed subject matter. Accordingly, Applicant has and is now correctly "interpreting" that ARC's clear intent was to capture the image of the agent coupon and not agent coupon data.

The Examiner's argument that Applicant believes that only images may be stored on optical media is an unwarranted assumption intended to circumvent the Examiner's inability to reconcile all of ARC's statements that is necessary to support the one inconsistent statement relied on by the Examiner. The Examiner's assumption of what Applicant believes is not based or shown to be based on any statement or argument by Applicant. Rather, it

comprises an unveiled attempt by the Examiner to circumvent the totality of ARC's statements which do not support the Examiner's position. Moreover, the unwarranted assumption made by the Examiner has no bearing on whether the one mis statement made by ARC constitutes conception of the invention. Posing a problem is not conception, *Morgan v. Hirsch* 728 F.2d 1449 (Fed. Cir. 1984). Inasmuch as ARC stated "In response to questions after the new policy was announced, ARC said it can give some advice but does not 'provide the tools or systems' to switch agent's coupons from accountable stock. Translation: It's up to the agents to figure out how to do it.", (*Travel Weekly News* dated 7/6/2000 (doc. AN, Form PTO 1449)), it is further clear that ARC's "advice" to optically store **the image of agent coupons**, did not amount to conception of an invention, but merely posed a problem to be solved, albeit for a different problem. Moreover, since Applicant's invention solved a problem different from the problem stated by ARC, it was doubly improper for the Examiner to conclude that Applicant is not the inventor of the claimed subject matter because he "had taken the advice of the ARC Board..."

In *Coleman v. Dines*, 754 F.2d 353 (Fed. Cir. 1985), the court held that to establish conception, a party must show possession of every feature recited in the claim that the party disclosed to others in such clear terms as to enable one skilled in the art to make the invention. Here, it is clear that the ARC Board did not show possession of Applicant's claim limitations to record data and generate an image from the data. For example, ARC stated "If you're using a type of optical storage media, we're talking about capturing the image of the coupon, not creating a database." Inasmuch as Applicant's claimed invention includes the creation of a database limitation, and not capturing the image of an agent coupon, contrary to ARC's "advice", it can not be said that ARC was in possession of and did not conceive of Applicant's claimed invention. Thus, Examiner's responsive argument to Applicant's argument in opposition to the Examiner's rejection under 35 U.S.C. §102(f) is not supportable by the facts or the law.

The Board is requested to note that the Examiner makes no attempt to support his argument (actually, his conclusion) that Applicant merely implemented the directives of ARC. The Examiner cites no authorities in support of his assumed facts or the facts as stated by him. And, as noted above, the Examiner makes no attempt to explain or distinguish all of the other statements by ARC that are contrary to the position taken by the examiner.

In another attempt to circumvent the only reasonable conclusion that ARC authorized a switch of paper agent coupons to optical storage of images of the coupons, but without having conceived of the way to accomplish the task, the Examiner argues that it is obvious by one of ordinary skill to store data from which an image could be reconstituted. In this argument, the Examiner makes various statements regarding the inherent aspects of computers and storage media. Applicant submits that the Examiner's argument is this regard is a "fall-back" argument (due to his inability to sustain his reliance on the one inconsistent statement by ARC) that is not supportive of or relevant to his rejection based on section 102(f).

The Examiner's "fall back" argument comprising the obviousness of Applicant's invention, must fail. The examiner cites no references upon which he relies; instead, he argues the "obviousness" of using a CD-ROM to store data from which an image can later be reconstituted. The Examiner also argues that image storage is actually stored as data. In *Uniroyal, Inc. v. Barnes-Hind/Hydrocurve, Inc.* 837 F.2d 1044 (Fed. Cir. 1988), 939 F.2d 1540 (Fed. Cir. 1991) it was stated: "Something in the prior art as a whole must suggest the desirability, and thus the obviousness of making the combination"; and, "The mere fact that a device or process uses a known scientific principle, does not alone make that device or process obvious". *In re Newell*, 891 F.2d 899 (Fed Cir. 1989) is in accord. [A] retrospective view of inherency is not a substitute for some teaching or suggestion which supports the selection and use of the various elements in the particular claimed combination." Thus, the Examiner's fall back argument must fail inasmuch as his argument comprises the prohibitions stated in *Uniroyal, Inc. v. Barnes-Hind/Hydrocurve, Inc.* and *In re Newell, supra*

Moreover, if the same were as obvious as Examiner states, why did two representatives of ARC act so surprised when Applicant was able to demonstrate that his invention provided for storage of data that could produce an actual facsimile of the agent coupon? In an attempt to answer this last question, the Examiner advances that not everybody within ARC possesses obvious computer knowledge. However, such answer must assume that ARC sent two computer illiterate representatives to ascertain that Applicant's invention met the agent coupon storage requirements of ARC. In truth, the Examiner's rejection is based only on prohibited hindsight.

The Examiner also argues, in support of his fall back obviousness argument, that

whether ARC' had authorized storage of the agent coupon as data or an image "(i.e. the legality of it)" has no bearing on the issue of obviousness. The Examiner uses an example of the legality of selling liquor to a minor as not being novel where the law was changed to allow such sales. The Examiner's reasoning being that the same previously known method of selling liquor to an adult may be used to sell liquor to the minor. The Examiner further reasoning that ARC's regulatory changes does not make storing data instead of an image novel. (As noted above, the Examiner, in this instance, attempts to use a "legality" argument as not being relevant to obviousness in direct contradiction to his use in attempting to impute ARC's legal requirements into *Friedes*, above). Most assuredly a change in the law or regulation is not a factor in consideration of obviousness. The issue of obviousness is determined in accordance with the many CAFC opinions, *supra* regarding the determination of obviousness. Applicant has demonstrated that the Examiner has made no such showing. Thus, the examiner has failed to demonstrate that "Applicant is not the inventor of the agent coupon storage system, but merely an implementer of ARC's directives."

d) Reply Argument Regarding Rejection of Claims 1-15 and 17, 18 Under 35 U.S.C. § 103

In part, the examiner responds that Applicant has proved that not everyone in ARC has basic computer skills by referring to the Nancy Johnson letter of January 19, 2001. The Examiner's argument is seen to be grounded on his opinion that anyone having basic computer skills would have known to store a document and then retrieve/print the document as a perfect facsimile of the original document. In further support, the Examiner argues that the use of forms or templates produce this result.

It is submitted that the Examiner's conclusion regarding Nancy Johnson (and therefore Tom Mistrot , ARC's Manager of Industry Product Development, who accompanied Nancy Johnson and chaired a number of ARC's Agent Working Group Meetings) is unfounded. In reaching this unfounded conclusion, the Examiner opines that Applicant's invention is merely a computer program that anyone with basic computer skills can generate. And, since Nancy Johnson and Tom Mistrot were surprised at the accomplishment of Applicant's invention, they therefore do not have the basic computer skills as one skilled in the art. Obviously, such circular reasoning is not probative.

Moreover, Applicant's claimed invention is not merely a program such as that of a template where variable data is input to create an image. Indeed, one skilled in the art of travel agents and computers would have the knowledge that the data selected to be stored in association with an agent coupon is not input by the travel agent as with a document template. As explained in the application,

The data 13 to be stored can be transmitted for example, in image format, accounting record format, or data file format. The data 13 can be transmitted to the storage apparatus 15 at the time each airline ticket 12 is created. The data and information can be temporarily stored within the reservation system 11 and upon the generation of a plurality of tickets, the temporarily stored data can be transmitted in a batch file format to the storage apparatus 15. The transmitted data 15 is stored in the storage apparatus 13 under, for example, a file designation that can include the ticket number, the passenger's name, the passenger's record locator or number, and the airline ticket agency's or the travel agent's information. The stored file is then moved to, for example, to a primary directory comprising the Airline Reporting Corporation's number and a sub-directory created by calculating the Sunday following the date of issue of the ticket.

Accordingly, the data to be stored, in accordance with Applicant's claimed method is transmitted to the storage apparatus from a plurality of sources and not only from the travel agent. Thus, the Examiner's attempt to fit Applicant's claimed invention within the context of a document created by a template is misplaced. In addition, the template example used by the Examiner is more properly considered storage of an image rather than storage of data.

Also in part, with regard to the Examiner's responsive argument on the issue of section 103, he argues that *Friedes* inherently includes the generation of and storage of an agent coupon because of ARC's requirements. As noted above, the Examiner is now using the very opposite of his argument regarding the sale of liquor to a minor. As also noted above, the incorporation of a rule or agency regulation as being inherent in the teachings of an invention is simply inappropriate and unsupportable. As further noted above, *Friedes* is concerned with an airline ticket and not agent coupons because of the purposeful absence of a

travel agent from the transaction envisioned by *Friedes*. Further, the generation of an airline ticket is materially different from an agent coupon. An airline ticket is simply a ticket that evidences the purchase of the same; an agent coupon involves a record of the complete transaction involving a travel agent, which is required by the presence of a travel agent. If a travel agent is not involved as in *Friedes*, there is no need for an agent coupon.

In the Examiner's continued responsive argument under section 103, he states that the ARC articles disclose creating a database and capturing the agent coupon data on an optical media. In support thereof, the Examiner argues that the Applicant misinterpreted the phrase "... you need to print the same information that would be on the agent's coupon". Applicant has not interpreted the phrase let alone misinterpreted the phrase. The Examiner has stated only part of the announcement. The remainder states "We are not talking about selecting data elements, we're talking about using a different media". Which announcement was between the announcement "... to capture the agent's coupon on a CD-ROM, DVD or even microfilm or microfiche...", and "if you're using a type of optical storage media, we're talking about capturing the image of the coupon, not creating a database." In view of the total context of the phrase cited by the Examiner and the totality of other statements by ARC and the IAH, it is respectfully submitted that the Examiner's argument as to how the phrase "...should be interpreted..." as data storage is completely without support.

e) Reply Argument Regarding Rejection of Claims 2-4 Under 35 U.S.C. § 103

In response to Applicant's argument that the ARC announcements teach away from Applicant's claimed invention, the Examiner argues that although not considered secure by ARC, other types of storage of agent coupons are obvious. The use of a hard drive instead of optical discs is however only one aspect of the ARC statements teaching away from Applicant's claimed invention. The main aspect is the requirements of image storage as compared to Applicant's data storage which was specifically stated not to be used. Clearly, ARC teaches away from Applicant's claimed invention. To interpret ARC's statements otherwise would require completely ignoring the plain meaning of words and twist the words to mean the exact opposite.

f) Reply Argument Regarding Rejection of Claims 6-9 and 10-14 Under 35 U.S.C. § 103

Inasmuch as the Examiner again argues that *Friedes* inherently includes agent coupon storage teachings as required by law (ARC's requirements), Applicant's above reply argument is applicable and is included herein by reference.

Applicant takes issue with the Examiner's that his rejection of a dependent claim automatically incorporates the arguments of the parent claims. Specifically, the Examiner argues that by stating in the rejection of the dependent claims "...disclose a method for printing an airline ticket as in Claim 1, above", he has explicitly incorporated the arguments, rejections and motivations of the parent claim into the dependent claims. It is respectfully submitted that the Examiner's extrapolation is overly broad and inappropriate. There is a major difference between an airline ticket and an agent coupon as explained above. Therefore, the Examiner has not incorporated any previous argument regarding agent coupons in the dependent claims.

CONCLUSION

Applicant apologizes for having to redundantly repeat the same *vis a vis* data arguments, the "required by law" arguments and the "inherent" teachings of *Friedes* arguments, above. However, the same was deemed necessary in view of the same counter arguments redundantly stated by the Examiner.

In conclusion, Applicant submits that the Examiner has not provided sufficient legal and probative arguments in support of his rejections of the claims in issue. Further, Applicant submits that the Examiner has failed to overcome Applicant's arguments showing that the rejections should not be sustained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard M. Saccocio", written over a horizontal line.

Richard M. Saccocio, Esq.

Attorney for the Appellant

CC: James W. Myhre
Primary Examiner
Art Unit 3622